

ESTTA Tracking number: **ESTTA386284**

Filing date: **01/01/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Anthony G. McIntosh
Granted to Date of previous extension	01/01/2011
Address	123 Town Square Place, Suite 163 Jersey City, NJ 07310 UNITED STATES
Party who filed Extension of time to oppose	AnthonyG.McIntosh
Relationship to party who filed Extension of time to oppose	Spacing between names.

Correspondence information	Anthony G. McIntosh 123 Town Square Place, Suite 163 Jersey City, NJ 07310 UNITED STATES duendejass@aol.com
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Applicant Information

Application No	85056549	Publication date	11/02/2010
Opposition Filing Date	01/01/2011	Opposition Period Ends	01/01/2011
Applicant	Shirinian, Raffi 1611 Cumberland terr. Glendale, CA 91202 UNITED STATES		

Goods/Services Affected by Opposition


Class 025. All goods and services in the class are opposed, namely: T-shirts

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	85160632	Application Date	10/25/2010
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Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	DUENDE		
Design Mark			
Description of Mark	The mark consists of word in stylized form.		
Goods/Services	Class 025. First use: First Use: 1992/06/00 First Use In Commerce: 1992/06/00 Clothing and accessories, namely suits, sportcoats, blazers, trousers, vests, dresses, skirts, shorts, overcoats, shirts, blouses, neckties, bowties, ascots, scarves, belts, suspenders, gloves, hats, caps, shoes, sneakers, boots, sandals, socks, stockings, underwear, lingerie, t-shirts, sweatshirts, sweaters, knitwear, namely polo shirts and turtlenecks, pajamas, robes, slippers, swimming suits, outerwear, namely raincoats, jackets, blousons, tuxedos and jeans		

Attachments	85160632#TMSN.jpeg (1 page)(bytes) Opposition Filing.pdf (2 pages)(75513 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Anthony G. McIntosh/
Name	Anthony G. McIntosh
Date	01/01/2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD

Serial No. **85056549** for an opposition.

Anthony McIntosh v. Raffi Shirinian, "Opposition No. _____".

NOTICE OF OPPOSITION

Anthony McIntosh, Individual

123 Town Square Place, Suite 163, Jersey City New Jersey 07310

If the mark in the pending Application Serial No. 85056549 registers, Plaintiff's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the two marks. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973)

Plaintiff is engaged in the sale or the same or related products or services (or that the product or service in question is within the normal expansion of plaintiff's business) and that the plaintiff has an interest in using the term descriptively in its business. *See Golomb v. Wadsworth*, 592 F.2d 1184, 201 USPQ 200, 201 (CCPA 1979); *Jewelers Vigilance Committee Inc. v. Ullenberg Corp.*, *supra* at 2024; *Otto Roth & Co., Inc. v. Universal Corp.*, 640 F.2d 1317, 209 USPQ 40, 43 (CCPA 1981)

Plaintiff also pleads proprietary rights in its pleaded mark that are prior to referenced application's rights in the challenged mark. *See Martahus v. Video Duplication Services Inc.*, 3 F.3d 417, 27 USPQ2d 1846, 1850 (Fed. Cir. 1993) (trade name use); *Shalom Children's Wear Inc. v. In-Wear A/S*, 26 USPQ2d 1516, 1519 (TTAB 1993) (priority of use against ITU application may be established with prior use analogous to trademark use); *Corporate Document Services Inc. v. I.C.E.D. Management Inc.*, 48 USPQ2d 1477, 1479 (TTAB 1998) (interstate or intrastate commerce is sufficient)

/Anthony G. McIntosh/ Plaintiff

1-1-2011